IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.851 OF 2007

Shri.Prashant Bhaskar Hende ..Applicant

Vs.

State of Maharashtra ..Respondents

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Mr.Milan Desai i/b T.R.Patel counsel for applicant
Mrs.A.S.Pai A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : MARCH 22, 2007

P.C.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking bail in C.R.No.40 of 2007 of Dindoshi Police Station.

3. It is the prosecution case that on 22.1.2007 at 7.40 p.m. Complainant Simraj Sudvesa was returning home after collecting cash from the shop keepers. At that time, the applicant along with other

accused posed themselves as C.B.I. officials and made complainant to sit in auto-rickshaw stating that they were taking him to the Dindoshi Police Station. One of the accused persons sat on the right side of the complainant and another sat on the left side of the complainant in the said auto-rickshaw and the remaining two accused persons sat in another rickshaw which followed the rickshaw in which the complainant was made to sit. When the rickshaw reached near highway, rickshaw was not taken to Dindoshi Police Station and the driver was told to take the rickshaw to Aarey Police Station, suspicion arose in the mind of the complainant and he asked rickshaw driver to take the rickshaw to Gokuldham Police Chowky. On reaching Gokuldham Police Chowky, the complainant called out to the police who were on duty at the Chowky. At that time the applicant came to be apprehended and other accused ran away. The complainant has stated that one of the accused persons had put his hand in the pocket of the complainant. When the accused ran away, the complainant checked his pocket and found that Rs.1000/- was missing from his pocket.

4. The learned counsel for the applicant has

submitted that only two persons were sitting in the auto-rickshaw of the complainant and there is no material to show as to which two accused persons were sitting in the auto-rickshaw. He has pointed out that no test identification parade has been held by the Investigating Agency. In reply, the learned A.P.P. has submitted that investigation in the present case is still going on and hence, remaining steps of the investigation including the test identification parade would be completed before the charge sheet is filed. As the applicant came to be apprehended red-handed, no test identification parade has been held. Even if the test identification parade is not held, it would not affect the prosecution case so far as the applicant is concerned, as the applicant was caught red-handed by the police.

5. Thereafter, the learned counsel for the applicant has pointed out that the case would not fall under Section 364-A of IPC. However, on perusal of the provisions of Section 364-A of IPC, prima facie, in my opinion, Section 364-A would be attracted. The present case is a serious case wherein the accused persons have posed themselves

as C.B.I. officials and have abducted the complainant. It is only because, the complainant called out to the police and police came there, the accused could not succeed in their evil design. In the present case, the investigation is still going on and hence, at this stage, I do not think that this is a fit case to grant bail.

6. Application is rejected. However, liberty is granted to the qapplicant to prefer a fresh application for bail after the charge sheet is filed.

[V.K.Tahilramani, J.]